

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY  
AUTHORITY, PUNE**

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO.7 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Success Aashirwad Infra

.... Respondent

**MahaRERA Project Registration No.P52100029616**

Coram: Shri.F.D.Jadhav, Dy.Secretary-Cum-Head

Adv.Harshad Nanaware appeared for the promoter/respondent

Mr.Rishab Jain Channel Partner appeared for Wisteria Real Vision Pvt Ltd.

**ORDER**

06<sup>th</sup> June, 2023

(Through Video Conferencing)

1. Maharashtra Real Estate Regulatory Authority has delegated certain powers on me on dated 26-04-2023 under Section-81 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016"). The said powers, inter alia, contains imposing of penalty under Section-59 of the Act, 2016 for contravention of the provision of Section-3 by the promoter and to impose penalty under Section-61 of the Act for contravention of Section 11(2) of the Act etc. In exercise of the said powers delegated to me under Section 81 of the Act, 2016, notices were served to the parties, heard the parties and thereafter matter is disposed of.
2. The MahaRERA Authority had issued a show cause notice dated 15-03-2023 to the promoter above named for publishing an advertisement in the 'Instagram' without mentioning the MahaRERA Registration number, in regards to the project "Kalp Avenue" Pune, bearing MahaRERA Registration No.P52100029616 situated at Spine Road, Pradhikaran, Pune.

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3. The promoter in his say dated 20-03-2023 has submitted that the promoter had appointed Real Estate Agent "Wisteria Real Vision Private Limited" as the channel partner for the purpose of marketing and advertising the said project. According to the promoter the said channel partner has published advertisement without MahaRERA registration number as well as without the knowledge of the promoter. Adv.Shri.Harshad Nanavare has submitted that the promoter has not made any mistake in publishing the advertisement. The channel partner has given the advertisement without MahaRERA registration number. He has further argued that the channel partner has admitted their mistake regarding such advertisement. In view of this notice was issued to the channel partner for giving opportunity of hearing.
4. Channel partner "Wisteria Real Vision Pvt Ltd" has submitted their say. In this say, the said Agency has prayed for apology for not printing the RERA registration number in the advertisement of "Kalp Avenue Project"
5. The aforesaid hearing was scheduled on 06-06-2023 through Video Conferencing as per the MahaRERA Circular No.27/2023 and MahaRERA Order No.593/2023 wherein the learned Adv.Harshad Nanavare for promoter, has submitted that the alleged advertisement is given by the channel partner and not the promoter. In fact, according to the learned Advocate, the channel partner has to publish the advertisement as per RERA rules and channel partner has to take all the measures and precautions prior to publishing the advertisement. He has further argued that the alleged advertisement has been published on the portal of channel partner and not the promoter. In view of this learned advocate has urged not to impose penalty on the promoter.
6. Admittedly advertisement was published by the channel partner without mentioning MahaRERA registration number. The said fact has

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been admitted by the promoter as well as channel partner. It has also been agreed by the channel partner as well as promoter that there was agreement, inter se, between them in respect of marketing and publishing advertisement of the said project. It is also admitted fact that the promoter had authorized the channel partner to publish the advertisement in respect of the said project and in view of this authorization the channel partner had issued advertisement without mentioning MahaRERA registration number. Thus it indicates clearly that the promoter is principally liable for the act done by the channel partner.

7. At this juncture it is necessary to go through Section 11(2) of the Act, 2016 which reads as under:

**Sec-11(2):- "The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto."**

8. On careful perusal of the Section 11(2) manifestly shows it is imperative on the part of the promoter to mention the MahaRERA Registration number of the project in the advertisement issued by him. Though the advertisement actually published by the channel partner, the entire onus is on the promoter of the project for said advertisement. In fact the advertisements are given for the purpose of attracting public at large towards the project. Intention behind the advertisement is that the public at large should know about their project and other important things/features about the project and book the Flat.

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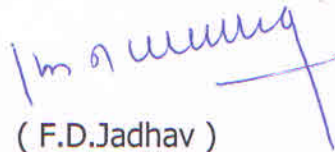
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9. Section 11(2) of the Act, 2016 does not speak regarding the channel partner. The said provision put responsibility on the promoter to mention prominently the registration number of the project in the advertisement. Section 61 states that if any promoter contravenes any other provisions other than Section 3 or Section 11, he shall be liable to a penalty mentioned therein. As said provision clearly empowers the Authority to impose penalty on the promoter on the violation of the said provision, it will not be legal and proper to impose penalty on the channel partner.
10. It is the fact that no promoter is giving advertisement personally. The promoter has to appoint either channel partner, Ad agencies or agent to publish advertisement of the project. In this matter the promoter has empowered the channel partner to give advertisement, though on certain terms and conditions. By virtue of this authorization the channel partner has published alleged advertisement. In this background it cannot be said promoter has/had no role in publishing the alleged advertisement.
11. Considering the facts vis a vis law discussed hereinabove the promoter cannot say that he will not be liable for the alleged advertisement. Taking into consideration the scope of Section 11(2) of the Act, 2016 it can be said that the promoter has violated the provision of Section 11(2) of the Act, 2016 for publishing the advertisement without MahaRERA registration number, and thus this is a fit and suitable case to impose penalty.
12. Section 61 of the Act, 2016 deals with penalty for contravention of other provisions of this Act. The said provision, inter alia, states that.....  
**..... promoter shall be liable to a penalty which may extend upto five percent of the estimated cost of the real estate project as determined by the Authority.** However, considering the facts and circumstances of this case lenient view ought to be taken while imposing the penalty in the matter.

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13. In view of the above, the penalty of Rs.25,000/- under Section 61 of the Act, 2016 is imposed upon the promoter for violation of Section 11(2) of the Act, 2016.
14. The said penalty shall be payable by the promoter within 30 days from the date of this order, failing which promoter shall be liable to penalty of Rs.1,000/- per day, in addition, till the realization of entire amount.
15. The Technical and the Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications viz. extension, corrections, change of name etc., with respect to the said project.

  
( F.D.Jadhav )  
Dy.Secretary-Cum-Head,  
MahaRERA, Pune